IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF

OKLAHOMA

FILED
JAN 20 2006
Phil Lombardi, Clerk
U.S. DISTRICT COURT

SUSAN QUEEN,)

Plaintiff,) Case No: 06CV 044 TCK-SAJ

vs.)

SIMMONS FOODS, INC, an Arkansas corporation,)

Defendant(s).)

COMPLAINT

Comes now the Plaintiff, SUSAN QUEEN, and for her claim against the Defendant, SIMMONS FOOD, INC., states and alleges as follows:

1. This action is brought and jurisdiction lies pursuant to 42 U.S.C. §§ 2000e-5, and/or 1981, et seq., and/or 1981a, et seq. Delaware County is within and venue is proper in this District.

2. Plaintiff is a Caucasian, female who resides at Jay, Delaware County, Oklahoma, and receives mail at P.O. Box 931, Jay, OK 74346

3. The Defendant, SIMMONS FOODS, INC. (hereinafter referred to as "SIMMONS," or the "DEFENDANT"), is an employer, as defined in 42 U.S.C. §2000e, and which state of incorporation and principal place of business is located in Siloam Springs, AR. The local Jay Plant, or Complex, at which the Plaintiff was employed at the time of the occurrences complained of herein, is, and was, located at State Highway 59, Jay, Delaware County, OK, and the company's registered mailing address is, P.O. Box 470, Jay, OK 74346.

forms fees pd s/I

4. On or about October 28, 2003, defendant, which employees, supervisory, and management personnel, prior to this date, had been subjecting the plaintiff to acts of sexual harassment, creating a hostile work environment, because employee was a female, and had previously successfully opposed Simmon's 2002 wrongful discharge actions by filing a complaint with the Oklahoma Human Rights Commission; she was thereby reinstated to her former position and received a monetary settlement thereto, did wrongfully accused, and despite her denial and request for documentary proof of her actions, available to the company, plant manager and Human Resource Director, Steve Hartman, from interior plaint security cameras, discharged said employee based on unfounded charges of employee work performance deficiencies and alleged violations of Simmons' and FDA quality control handling and/or inspection of food product standards. (Simmons' alleged, stated grounds of and supporting the company's discharge were successfully and favorably appealed by claimant-employee, plaintiff herein, to the Oklahoma Employment Securities Commis-sion upon Simmons' denial of plaintiff's claim for employment benefits arising from the wrongful termination). Plaintiff had informed local, Jay plant, and national company management of certain sexual harassment activities being engaged in by plant supervisory personnel, and that the subsequent actions, conduct and behavior of the supervisory and management personnel, and the hostile work environment created thereby, were knowing, willful, intentional and intended to deflect, suppress and quiet the plaintiff's related warnings and complaints of sexual misconduct and other actions violative of Simmons' expressed, written employment policies and procedures.

5. That Simmons and plant supervisory and management personnel committed acts and engaged in behavior of disparate treatment discrimination.

6. Plaintiff further alleges herein that Simmons' motivation in terminating her, was partially based on retaliation of the fact that the plaintiff-employee had previously successfully

opposed, appealed and ultimately received employment reinstatement, and monetary damages due to and arising from Simmons' prior, 2002 wrongful discharge of employee by and through the intervening actions undertaken through the Oklahoma Human Rights Commission; because of sex and disparate treatment.

7. Plaintiff further alleges herein that Simmons' actions and oral representations of management personnel to other Simons personnel violated and breach the parties prior, 2002 discharge claim settlement agreement entered into and executed for Simmons by Jay Plant, Human Resources Director, Steve Hartman, on 01/17/03; and whereby Simmons pledged and promised to maintain and not breach the confidentiality of the facts and circumstances of and surrounding that employment discharge occurrence, and subsequent HRC complaint and monetary settlement agreement.

8. Plaintiff timely filed a written complaint of discrimination with the Equal Employ-ment Opportunity Commission (EEOC) and received a right to sue letter, a copy of which is, or will be, attached. All conditions precedent to the institution of this lawsuit have been fulfilled and are timely performed in the filling of her Complaint herein.

9. Plaintiff 's has suffered and incurred compensatory, monetary and non-pecuniary and appropriate punitive damages as a proximate result of the actions, conduct and behavior Simons' supervisory and management personnel, and/or its and their failure or negligence in failing to timely take action as described or adduced herein, each and all to here to her detriment in the approximate amount of FOUR HUNDRED THOUSAND AND SIXTY ($460,000.00) DOLLARS, plus an appropriate amount of damages as the adduced herein in the maximum amount allowed by law or to which she is otherwise entitled by the facts and circumstances adduced herein, but not less than TWO HUNDRED AND FIFTY THOUSAND ($250,000.00) DOLLARS.

10. Wherefore, Plaintiff prays for compensatory damages to which she is entitled by regulation, law or equity, including, but not limited to back pay, or, in the alternative, pay differ-ential, front pay, health and emotional damages and reimbursement of medical bills and expense incurred therefrom, to plaintiff's detriment in an amount of $85,000.00 or more as the evidence adduces; monetary, non-pecuniary and compensatory damages to plaintiff's detriment in an amount of $125,000.00 or more as the evidence adduces for Simmons' wrongful discharge; monetary, non-pecuniary and punitive damages to plaintiff's detriment in an amount of $125,000.00 or more as the evidence adduces for the defendant Simmons' willful, intentional and egregious disregard of the parties prior employment dispute settlement and confidentiality agreement; monetary, non- pecuniary and punitive damages to plaintiff's detriment in an amount of $125,000.00 or more as the evidence adduces for the defendant Simmons' willful, intentional and egregious actions undertaken herein, in part in retaliation and disregard of the parties prior employment dispute settlement and monetary settlement agreement, and of plaintiff-employees' civil, constitutional and company rights to be protected against employment and sexual discrimination actions activities, each and all to the plaintiff-employee's monetary, non- pecuniary and punitive damages detriment in an amount of $125,000.00 or more as the evidence adduces, pre- and post judgment interest thereon; an imposition of punitive damages in an appropriate amount of damages as the adduced herein in the maximum amount allowed by law or to which she is otherwise entitled by the facts and circumstances adduced herein, but not less than TWO HUNDRED AND FIFTY THOUSAND ($250,000.00) DOLLARS,

warranted by Simmons' actions in engaging in its knowing, willful, and intentional pattern of egregious, discriminatory, practices with malice and/or with reckless indifference to the federally, protected rights of the plaintiff-employee; each and all in the appropriate and maximum amount allowed or permitted by law; and such other relief as the Court would allow under Title VII of the

Rights Act of 1964, and/or of the Civil Rights Acts of 1991; grant plaintiff her costs, including a reasonable attorney's fee and expert costs, incurred herein, and such other and further relief to which she is entitled by law or equity or the court deems just and proper in the premises.

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ATTORNEY'S LIEN CLAIMED